

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
UNITED STATES COURT HOUSE
200 E.WALL STREET, ROOM 107
MIDLAND, TEXAS 79701

FILED

JUL 9 2010

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY CLERK

CRYSTAL MUNOZ

#79319-180

FEDERAL MEDICAL CENTER, CARSWELL

P.O. BOX 27137

FORTWORTH, TEXAS 76127

DEAR CLERK:

This is in addition to the previous memorandum filed for case #MO-07-CR-119 MO-10-CV-044. The ground was listed in the 2255 motion under ground "G", in regards to the enhancements. Thank-You.

Sincerely Yours,


Crystal Munoz

Ground G

Ineffective Assistance of Counsel

Counsel was not effective. He failed to object to governments upward departure, using 4A1.1(e) and 4A1.1(d) to enhance defendants sentence by adding 2 points, stating... the defendant committed the instant offense while under any criminal justice.

Defendant was on state probation for the offense of possession of marijuana in the Ector County Court, in Odessa, Texas, under case #05-2071. Defendant plead no contest on 5-11-2005, her sentence was not imposed until 8-11-2005. (See defendants Criminal History record). The court attributed defendants "instant offense" and involvement from April 2005 - July 2005, making the prior sentence used as criminal history, imposed after the "instant offense" not "prior".

§4A1.2 Definitions and Instructions for computing Criminal History.

(a) Prior Sentence.

(1) The term "prior sentence" means any sentence previously imposed upon adjudication of guilt, whether by plea, trial, or plea of nolo contender, for conduct not part of the instant offense. Therefor counsel was ineffective in his failure to know the law and make objections to the improper application to upward depart and enhance defendants sentence.

Certificate of Service

I hereby certify that I have served a copy of the foregoing upon the Government by mailing a copy of same, postage prepaid to: US Attorneys office 400 W. Illinois Suit 1200 Midland, Tx. 79701-2548. This 7th day of July, 2010.



Crystal Munoz